

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC., )  
FOREST LABORATORIES HOLDINGS, LTD., )  
MERZ PHARMA GMBH & CO. KGAA, and )  
MERZ PHARMACEUTICALS GMBH, )

Plaintiffs,

v.

COBALT LABORATORIES INC., LUPIN )  
PHARMACEUTICALS, INC., LUPIN LTD., )  
ORCHID PHARMACEUTICALS INC., ORCHID )  
CHEMICALS & PHARMACEUTICALS LTD. )  
(d/b/a ORCHID HEALTHCARE), TEVA )  
PHARMACEUTICALS USA, INC., UPSHER- )  
SMITH LABORATORIES, INC., WOCKHARDT )  
USA INC., and WOCKHARDT LIMITED, )

Defendants.

C.A. No. 08-21-GMS

**MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION**

Defendant Orchid Chemicals & Pharmaceuticals Ltd. respectfully moves pursuant to Fed. R. Civ. P. 12(b)(2) to dismiss the complaint against it for lack of personal jurisdiction. The grounds for this motion are fully set forth in the Opening Brief In Support filed contemporaneously herewith.

OF COUNSEL:

Kenneth G. Schuler  
LATHAM & WATKINS LLP  
Sears Tower, Suite 5800  
233 South Wacker Drive  
Chicago, IL 60606  
Tel: (312) 876-7700  
[kenneth.schuler@lw.com](mailto:kenneth.schuler@lw.com)

Terrence J. Connolly  
LATHAM & WATKINS LLP  
885 Third Avenue, Suite 1000  
New York, NY 10022-4834  
Tel: (212) 906-1200  
[terrence.connolly@lw.com](mailto:terrence.connolly@lw.com)

Darryl H. Steensma  
LATHAM & WATKINS LLP  
12636 High Bluff Drive, Suite 300  
San Diego, CA 92130  
Tel: (858) 523.5400  
[darryl.steensma@lw.com](mailto:darryl.steensma@lw.com)

Dated: March 3, 2008  
852313 / 32657

POTTER ANDERSON & CORROON LLP

By: /s/ Richard L. Horwitz  
Richard L. Horwitz (#2246)  
David E. Moore (#3983)  
Hercules Plaza, 6th Floor  
1313 N. Market Street  
Wilmington, Delaware 19801  
Tel: (302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

*Attorneys for Defendants  
Orchid Pharmaceuticals Inc., and  
Orchid Chemicals & Pharmaceuticals Ltd.*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

**CERTIFICATE OF SERVICE**

I, Richard L. Horwitz, hereby certify that on March 3, 2008, the attached document was electronically filed with the Clerk of the Court using CM/ECF which will send notification to the registered attorney(s) of record that the document has been filed and is available for viewing and downloading.

I further certify that on March 3, 2008, the attached document was Electronically Mailed to the following person(s):

Jack B. Blumenfeld  
Maryellen Noreika  
Morris, Nichols, Arsht & Tunnell LLP  
1201 North Market Street  
P.O. Box 1347  
Wilmington, DE 19899  
[jblumenfeld@mnat.com](mailto:jblumenfeld@mnat.com)  
[mnoreika@mnat.com](mailto:mnoreika@mnat.com)

*Attorneys for Plaintiffs*

F. Dominic Cerrito  
Daniel L. Malone  
Eric C. Stops  
Jones Day  
222 East 41<sup>st</sup> Street  
New York, NY 10017  
[fdcerrito@jonesday.com](mailto:fdcerrito@jonesday.com)  
[dlmalone@jonesday.com](mailto:dlmalone@jonesday.com)  
[estops@jonesday.com](mailto:estops@jonesday.com)

*Attorneys for Plaintiffs*

John M. Desmarais  
Gerald J. Flattmann, Jr.  
Melanie R. Rupert  
Kirkland & Ellis, L.L.P.  
Citigroup Center  
153 E. 53<sup>rd</sup> Street  
New York, NY 10022  
[jdesmarais@kirkland.com](mailto:jdesmarais@kirkland.com)  
[gflattmann@kirkland.com](mailto:gflattmann@kirkland.com)  
[mrupert@kirkland.com](mailto:mrupert@kirkland.com)

*Attorneys for Plaintiffs*

Richard K. Herrmann  
Mary Matterer  
Amy A. Quinlan  
Morris James LLP  
500 Delaware Avenue, Suite 1500  
Wilmington, DE 19899  
[rherrmann@morrisjames.com](mailto:rherrmann@morrisjames.com)  
[mmatterer@morrisjames.com](mailto:mmatterer@morrisjames.com)  
[aquinlan@morrisjames.com](mailto:aquinlan@morrisjames.com)

*Attorneys for Defendant Cobalt  
Laboratories, Inc.*

William A. Rakoczy  
Paul J. Molino  
Deanne M. Mazzochi  
Neil A. Benchell  
John Polivick  
Rakoczy Molino Mazzochi Siwik LLP  
6 West Hubbard Street, Suite 500  
Chicago, IL 60610  
[wrakoczy@rmmslegal.com](mailto:wrakoczy@rmmslegal.com)  
[pmolino@rmmslegal.com](mailto:pmolino@rmmslegal.com)  
[dmazzochi@rmmslegal.com](mailto:dmazzochi@rmmslegal.com)  
[nbenchell@rmmslegal.com](mailto:nbenchell@rmmslegal.com)  
[jpolivick@rmmslegal.com](mailto:jpolivick@rmmslegal.com)

*Attorneys for Defendant Cobalt  
Laboratories, Inc.*

Douglass C. Hochstetler  
Sailesh K. Patel  
Schiff Hardin LLP  
6600 Sears Tower  
Chicago, IL 60606  
[dhochstetler@schiffhardin.com](mailto:dhochstetler@schiffhardin.com)  
[spatel@schiffhardin.com](mailto:spatel@schiffhardin.com)

*Attorneys for Defendants Lupin  
Pharmaceuticals, Inc. and Lupin Ltd.*

Joseph Grey  
Thomas G. Whalen, Jr.  
Stevens & Lee, P.C.  
1105 North Market Street, 7<sup>th</sup> Floor  
Wilmington, DE 19801  
[jg@stevenslee.com](mailto:jg@stevenslee.com)  
[tgw@stevenslee.com](mailto:tgw@stevenslee.com)

*Attorneys for Defendant Teva  
Pharmaceuticals USA, Inc.*

Richard D. Kirk  
Ashley B. Stitzer  
Bayard, P.A.  
222 Delaware Ave., Suite 900  
Wilmington, DE 19899  
[rkirk@bayardfirm.com](mailto:rkirk@bayardfirm.com)  
[astitzer@bayardfirm.com](mailto:astitzer@bayardfirm.com)

*Attorneys for Defendants Lupin  
Pharmaceuticals, Inc. and Lupin Ltd.*

D. Christopher Ohly  
Schiff Hardin LLP  
1666 K. Street, N.W., Suite 300  
Washington, D.C. 20036  
[dcohly@schiffhardin.com](mailto:dcohly@schiffhardin.com)

*Attorneys for Defendants Lupin Pharmaceu  
Inc. and Lupin Ltd.*

Steven J. Lee  
Sheila Mortazavi  
Merri C. Moken  
Peter L. Giunta  
Kenyon & Kenyon LLP  
One Broadway  
New York, NY 10004  
[slee@kenyon.com](mailto:slee@kenyon.com)  
[smortazavi@kenyon.com](mailto:smortazavi@kenyon.com)  
[mmoken@kenyon.com](mailto:mmoken@kenyon.com)  
[pgiunta@kenyon.com](mailto:pgiunta@kenyon.com)

*Attorneys for Defendant Teva Pharmaceutica  
USA, Inc.*

Frederick Cottrell  
Anne Shea Gaza  
Richards, Layton & Finger  
One Rodney Square  
920 N. King Street  
Wilmington, DE 19899  
[cottrell@rlf.com](mailto:cottrell@rlf.com)  
[agaza@rlf.com](mailto:agaza@rlf.com)

*Attorneys for Defendant Upsher-Smith  
Laboratories Inc.*

Jake M. Holdreith  
Robins, Kaplan, Miller & Ciresi L.L.P.  
2800 LaSalle Plaza  
800 LaSalle Avenue  
Minneapolis, MN 55402  
[jmholdreith@rkmc.com](mailto:jmholdreith@rkmc.com)

*Attorneys for Defendant Upsher-Smith  
Laboratories Inc.*

David E. Marder  
Yixin H. Tang  
Robins, Kaplan, Miller & Ciresi L.L.P.  
Prudential Tower, 25<sup>th</sup> Floor  
800 Boylston Street  
Boston, MA 02199  
[demarder@rkmc.com](mailto:demarder@rkmc.com)  
[yhtang@rkmc.com](mailto:yhtang@rkmc.com)

*Attorneys for Defendant Upsher-Smith  
Laboratories Inc.*

Jeffrey L. Moyer  
Kelly E. Farnan  
Richards, Layton & Finger  
One Rodney Square  
920 N. King Street  
Wilmington, DE 19899  
[Moyer@rlf.com](mailto:Moyer@rlf.com)  
[Farnan@rlf.com](mailto:Farnan@rlf.com)

*Attorneys for Defendants Wockhardt USA Inc  
Wockhardt Limited*

/s/ Richard L. Horwitz  
Richard L. Horwitz  
Kenneth L. Dorsney  
Potter Anderson & Corroon LLP  
Hercules Plaza – Sixth Floor  
1313 North Market Street  
P.O. Box 951  
Wilmington, DE 19899-0951  
(302) 984-6000  
[rhorwitz@potteranderson.com](mailto:rhorwitz@potteranderson.com)  
[dmoore@potteranderson.com](mailto:dmoore@potteranderson.com)

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC., )  
FOREST LABORATORIES HOLDINGS, LTD., )  
MERZ PHARMA GMBH & CO. KGAA, and )  
MERZ PHARMACEUTICALS GMBH, )

Plaintiffs,

v.

COBALT LABORATORIES INC., LUPIN )  
PHARMACEUTICALS, INC., LUPIN LTD., )  
ORCHID PHARMACEUTICALS INC., ORCHID )  
CHEMICALS & PHARMACEUTICALS LTD. )  
(d/b/a ORCHID HEALTHCARE), TEVA )  
PHARMACEUTICALS USA, INC., UPSHER- )  
SMITH LABORATORIES, INC., WOCKHARDT )  
USA INC., and WOCKHARDT LIMITED, )

Defendants.

C.A. No. 08-21-GMS

**ORDER**

Having considered defendant Orchid Chemicals & Pharmaceuticals Ltd.'s Motion To Dismiss, IT IS HEREBY ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2008 that the Motion is GRANTED.

\_\_\_\_\_  
United States District Judge